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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,987	03/05/2002	George Kramerich	47276-00014USPT	2871

7590 11/10/2005  
Oppenheimer Wolff & Donnelly LLP  
ATTN: Craig J. Lervick  
45 South Seventh Street  
Suite 3300  
Minneapolis, MN 55402

EXAMINER
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VAUGHN JR, WILLIAM C

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/936,987

Applicant(s)

KRAMERICH ET AL.

Examiner

William C. Vaughn, Jr.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7,8,12-14,16,17,19 and 22-26 is/are rejected.
- 7) ☒ Claim(s) 6,9-11,15,18,20 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/1/04, 8/30/05</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Action is in regards to the Amendment and Response received on 30 August 2005.

#### *Continued Examination Under 37 CFR 1.114*

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 30 August 2005 has been entered.

3. The application has been examined. Claims 1 and 3-26 are pending.

#### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3-5, 7, 8, 12-14, 16, 17, 19, and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable Conrad et al. (Conrad), U.S. Patent No. 5,465,115 in view of Miura, U.S. Patent No. 5,485,347 in view of Dedrick, U.S. Patent No. 5,696,965 and in further view of Montero, U.S. Patent No. 6,133,912.
6. Regarding independent claims 1 and 3, (e.g., exemplary independent claim 1). Conrad discloses the invention substantially as claimed. Conrad discloses *a pedestrian traffic indexing*

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*system comprising a plurality of traffic monitors at a plurality of provider sites* [see Conrad, abstract, Col. 2, lines 35-66, Col. 4, lines 8-67]. However, Conrad does not explicitly disclose a server connected to said connected to said traffic monitors to receive pedestrian traffic data from said traffic monitors; a traffic database for storing said pedestrian traffic data; at least one database for storing non-traffic related data; generating national retail traffic index data by processing data stored in the traffic database and the at least one database for storing non-traffic related data; a national retail traffic index data mart for storing the national retail traffic index data; a data communication connection for transferring data among the traffic database, the at least one database for storing non-traffic related data, the view creator, the national retail traffic index database and the server wherein a user can access the national traffic index data mart via the data communication connection.

7. In the same field of endeavor, Miura discloses (e.g., riding situation guiding management system). Miura discloses server connected to said connected to said traffic monitors to receive pedestrian traffic data from said traffic monitors; a traffic database for storing said pedestrian traffic data (Miura teaches data on specific passengers are collected and transmitted to receivers provided in forward stations or the like by a transmission unit. Furthermore, Miura teaches that the data received by the receiver in each station is processed by a communication circuit and stored in a storage unit in the form of files, under the control of a data controller), [see Miura, Col. 14, lines 57-65].

8. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Miura's teachings of a riding situation guiding management system with the teachings of Conrad, for the purpose of providing a riding

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situation guiding management system which measures the number of passengers in each car, and the to communication the measured number of passengers to forward stations [see Miura, Col. 1, lines 66-67 and Col. 2, lines 1-5]. However, Conrad-Miura do not explicitly disclose at least one database for storing non-traffic related data; generating national retail traffic index data by processing data stored in the traffic database and the at least one database for storing non-traffic related data; a national retail traffic index data mart for storing the national retail traffic index data; a data communication connection for transferring data among the traffic database, the at least one database for storing non-traffic related data, the view creator, the national retail traffic index database and the server wherein a user can access the national traffic index data mart via the data communication connection.

9. In the same field of endeavor, Dedrick discloses (e.g., electronic information appraisal agent). Dedrick discloses *at least one database for storing non-traffic related data* [see Dedrick, Col. 10, lines 10-33-65]; *generating national retail traffic index data by processing data stored in the traffic database and the at least one database for storing non-traffic related data* [see Dedrick, col. 10, lines 34-65]; *a national retail traffic index data mart for storing the national retail traffic index data* [see Dedrick, Col. 10, lines 33-51].

10. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Dedrick's teachings of an electronic information appraisal agent with the teachings of Conrad-Miura, for the purpose of giving users more control over receiving information [see Dedrick, Col. 1, lines 50-55].

11. In the same field of endeavor, Montero discloses (e.g., method of delivering information over a communication network). Montero discloses *a view creator for generating national retail*

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*traffic index data by processing data stored in the traffic database and the at least one database for storing non-traffic related data and a data communication connection for transferring data among the traffic database, the at least one database for storing non-traffic related data, the view creator, the national retail traffic index database and the server wherein a user can access the national traffic index data mart via the data communication connection* [see Montero, Figure 1, Col. 4, lines 29-62].

12. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Montero's teachings of a method of delivering information over a communication network with the teachings of Conrad-Miura and Dedrick for the purpose of allowing for updated demographic information and purchase habits to be easily identifiable by a user [see Montero, Col. 2, lines 40-65].
13. Regarding dependent claims 4, 5, 7, 8, 12-14, 16, 17, 19, 22-26 the limitations of these claims are taught within the figures and disclosure of Dedrick-Fox.

#### ***Allowable Subject Matter***

14. Claims 6, 9-11, 15, 18, 20 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

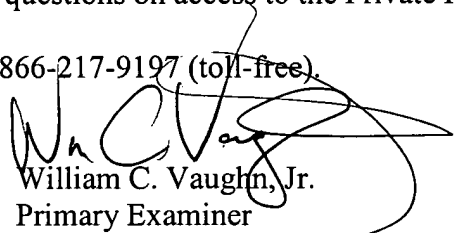
#### ***Conclusion***

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (571) 272-3922. The examiner can normally be reached on 8:00-6:00, 1st and 2nd Friday Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William C. Vaughn, Jr.  
Primary Examiner  
Art Unit 2143  
01 November 2005

WCV